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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,870	08/20/2001	Bernard William Kluesener	7441	5609

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EXAMINER

MRUK, BRIAN P

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 04/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/913,870

Applicant(s)

KLUESENER ET AL.

Examiner

Brian P Mruk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 11-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 11-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Specification***

2. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

### ***Claim Objections***

3. Claims 19 and 28 are objected to because of the following informalities:

In instant claim 19, the phrase "wherein said a nonionic surfactant" should be amended to recite "wherein said nonionic surfactant" for grammatical purposes.

In instant claim 28, the term "MnTACN" should be written out in non-abbreviated form for clarification purposes.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 15-18, 27-28, and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. The phrase "less than about" in claims 15, 16, 27 and 31 renders the claim vague and indefinite. The phrase "at least about" renders the claims indefinite, since one of ordinary skill in the art would not be able to ascertain the metes and bounds of the phrase "less than about". It is unclear what values are encompassed by the phrase "less than about". The examiner suggests that this phrase should be changed to either "less than". "Claims reciting "less than about" are invalid for indefiniteness where there was close prior art and there was nothing in the specification, prosecution history, or the prior art to provide any indication as to what range of specific activity is covered by the term about." See MPEP 2173.05(b). Appropriate correction and/or clarification is required.

7. The phrase "greater than about" in claims 17 and 18 renders the claim vague and indefinite. The phrase "greater than about" renders the claims indefinite, since one of ordinary skill in the art would not be able to ascertain the metes and bounds of the phrase "greater than about". It is unclear what values are encompassed by the phrase

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"greater than about". The examiner suggests that this phrase should be changed to either "greater than". "Claims reciting "greater than about" are invalid for indefiniteness where there was close prior art and there was nothing in the specification, prosecution history, or the prior art to provide any indication as to what range of specific activity is covered by the term about." See MPEP 2173.05(b). Appropriate correction and/or clarification is required.

8. Instant claim 28 is rejected under 35 U.S.C. 112, second paragraph, for being dependent upon a claim with the above addressed 112 problem (i.e. claim 27).

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1, 11-20, and 22-33 are rejected under 35 U.S.C. 102(a) as being anticipated by Scheper et al, WO 99/06466.

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Scheper et al, WO 99/06466, discloses an automatic dishwashing composition comprising 0.1-15% by weight of an ether-capped poly(oxyalkylated) alcohol surfactant (see page 3, lines 15-30), 0.1-15% by weight of a low foaming nonionic surfactant (see page 13, lines 3-37), 1-80% by weight of builders (see page 20, lines 1-16), 0.1-70% by weight of bleaching agents, such as hydrogen peroxide, sodium perborate, and sodium percarbonate (see page 22, line 27-page 23, line 14), 0.01-15% by weight of bleach activators, such as tetraacetythylenediamine and benzoylcaprolactam (see page 23, lines 26-36), and adjunct ingredients, such as organic peroxides, bleach catalysts, and enzymes (see page 24, line 18-page 31, line 37), per the requirements of the instant invention. Specifically, note pages 39-44, Examples 8-16. Therefore, instant claims 1, 11-20, and 22-33 are anticipated by Scheper et al, WO 99/06466.

11. Claims 1, and 11-33 are rejected under 35 U.S.C. 102(a) as being anticipated by Chatterjee et al, WO 98/11186.

Chatterjee et al, WO 98/11186, discloses an automatic dishwashing detergent comprising 5-90% by weight of a phosphate builder (see page 2, lines 21-26), 0.1-15% by weight of a nonionic surfactant (see page 2, line 27-page 3, line 2), 0.1-6% by weight of an enzyme (see page 3, lines 3-4), 0.1-40% by weight of a bleaching agent, such as hydrogen peroxide, sodium dichloroisocyanurate, sodium perborate, and sodium percarbonate (see page 3, lines 5-9), bleach catalysts (see page 3, lines 11-27), 0.5-10% by weight of bleach activators, such as tetraacetythylenediamine (see page 21, lines 24-35), and 0.1-10% by weight of low foaming nonionic surfactants (see page 7,

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lines 16-33), per the requirements of the instant invention. Specifically, note pages 38-43, Examples 1-13. Therefore, instant claims 1, and 11-33 are anticipated by Chatterjee et al, WO 98/11186.

12. Claims 1, 11-19, 23, 24, and 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Lentsch et al, WO 95/34633.

Lentsch et al, WO 95/34633, discloses an automatic dishwashing detergent comprising 3.728% by weight of BASF LF 221 (i.e. a  $C_{13/15}$  alkyl-O-(EO)<sub>9/10</sub>-(BO)<sub>1/2</sub> nonionic surfactant), 1.598% by weight of BASF LF 500 (i.e. a secondary nonionic surfactant), 33.953% by weight of sodium tripolyphosphate, 8.5% by weight of coated sodium dichloroisocyanurate dihydrate, and adjunct ingredients (see page 20, Formulation 2), per the requirements of the instant invention. Therefore, instant claims 1, 11-19, 23, 24, and 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Lentsch et al, WO 95/34633.

13. Claims 1, and 11-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Chatterjee et al, U.S. Patent No. 5,967,157.

Chatterjee et al, U.S. Patent No. 5,967,157, discloses an automatic dishwashing detergent comprising 5-90% by weight of a phosphate builder (see col. 2, lines 25-29), 0.1-15% by weight of a nonionic surfactant (see col. 2, lines 30-44), 0.1-6% by weight of an enzyme (see col. 2, lines 45-46), 0.1-40% by weight of a bleaching agent, such as hydrogen peroxide, sodium dichloroisocyanurate, sodium perborate, and sodium

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percarbonate (see col. 2, lines 47-54), bleach catalysts (see col. 2, line 57-col. 3, line 13), 0.5-10% by weight of bleach activators, such as tetraacetythylenediamine (see col. 16, lines 15-57), and 0.1-10% by weight of low foaming nonionic surfactants (see col. 5, line 61-col. 6, line 24), per the requirements of the instant invention. Specifically, note columns 28-31, Examples 1-13. Therefore, instant claims 1, and 11-33 are anticipated by Chatterjee et al, U.S. Patent No. 5,967,157.

14. Claims 1, and 11-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Chatterjee et al, U.S. Patent No. 5,912,218.

Chatterjee et al, U.S. Patent No. 5,912,218, discloses an automatic dishwashing detergent comprising 5-90% by weight of a phosphate builder (see col. 2, lines 55-61), 0.1-15% by weight of a nonionic surfactant system (see col. 2, line 62-col. 3, line 7), 0.1-6% by weight of an enzyme (see col. 12, lines 48-51), 0.1-40% by weight of a bleaching agent, such as hydrogen peroxide, sodium dichloroisocyanurate, sodium perborate, and sodium percarbonate (see col. 3, lines 13), bleach catalysts (see col. 17, line 10-col. 21, line 43), 0.01-15% by weight of bleach activators, such as tetraacetythylenediamine (see col. 16, lines 32-67), and 0.1-15% by weight of low cloud point nonionic surfactants (see col. 5, line 43-col. 6, line 41), per the requirements of the instant invention. Specifically, note columns 28-30, Examples 1-11. Therefore, instant claims 1, and 11-33 are anticipated by Chatterjee et al, U.S. Patent No. 5,912,218.



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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (703) 305-0728. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 (Before Final) and (703) 872-9311 (After Final).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

BPM

Brian Mruk  
April 23, 2003

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